



OFFICE *of the* ATTORNEY GENERAL  
GREG ABBOTT

March 10, 2003

Mr. Scott A. Kelly  
Deputy General Counsel  
Texas A&M University System  
301 Tarrow, 6<sup>th</sup> Floor  
College Station, Texas 77840-7896

OR2003-1558

Dear Mr. Kelly:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 179809.

Texas A&M University (the "university") received a request for the names, addresses, phone numbers, facsimile numbers, and e-mail addresses of current football and basketball season ticket holders. Although you state that most of the responsive information will be released, you claim, however, that some of the requested information is excepted from disclosure under sections 552.117 and 552.137 of the Government Code. We have considered the exceptions you claim and have reviewed the submitted information.

The university states, and we agree, that it has not sought an open records decision from this office within the statutory ten-day deadline. *See* Gov't Code § 552.301. The university's delay in this matter results in the presumption that the requested information is public. *See id.* § 552.302; *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379 (Tex. App.--Austin 1990, no writ). In order to overcome the presumption that the requested information is public, the university must provide compelling reasons why the information should not be disclosed. *Hancock*, 797 S.W.2d at 381. The applicability of sections 552.117 and 552.137 provide such a compelling reason. Open Records Decision No.150 (1977) (presumption of openness overcome by showing that information is made confidential by another source of law or affects third party interests). Accordingly, we will address your claimed exceptions to disclosure.

Initially, you claim that the university must withhold some of the requested home addresses and phone numbers pursuant to section 552.117(1) of the Government Code. Section 552.117 excepts from disclosure the home addresses and telephone numbers, social security numbers, and family member information of current or former officials or employees of a governmental body who request that this information be kept confidential under section 552.024 of the Government Code. You indicate that some of the season ticket holders are current or former employees of the university who elected to withhold their personal information from public disclosure. Based on your representations, we agree that the university must withhold the home addresses and phone numbers of these season ticket holders under section 552.117(1).

You also claim that the highlighted e-mail addresses are excepted from disclosure under section 552.137 of the Government Code. Section 552.137 requires a governmental body to withhold an e-mail address of a member of the public that is provided for the purpose of communicating electronically with the governmental body, unless the member of the public has affirmatively consented to its release. We have reviewed the e-mail addresses you have marked and agree that most of them must be withheld from disclosure under section 552.137. We have, however, marked a public e-mail address that must be released.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free,

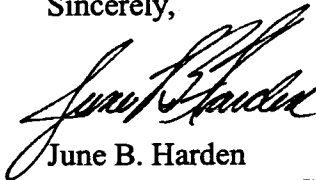
at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



June B. Harden  
Assistant Attorney General  
Open Records Division

JBH/seg

Ref: ID# 179809

Enc: Submitted documents

c: Ms. Lissa Adams  
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(w/o enclosures)